

EXHIBIT C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MDL Docket No. 1629
Master File No. 04-10981

IN RE: NEURONTIN MARKETING
SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO:

Shearer v. Pfizer Inc., 1:07-cv-11428-WGY *

DAILY TRANSCRIPT OF PRELIMINARY
JURY INSTRUCTIONS, OPENING
STATEMENTS and THE EVIDENCE
(Volume 2)

BEFORE: The Honorable William G. Young,
District Judge, and a Jury

APPEARANCES:

FINKELSTEIN & PARTNERS, LLP (By Ronald Rosenkranz, Esq., Kenneth B. Fromson, and Keith L. Altman, Esq.), 1279 Route 300, P.O. Box 1111, Newburgh, New York 12551

and
JACK W. LONDON and ASSOCIATES, P.C. (By
Jack W. London, Esq.), 3701 Bee Cave Road, Suite
200, Austin, Texas 78746

THE LANIER LAW FIRM PLLC (By Kenneth S. Soh, Esq.), 6810 FM1960 West, Houston, Texas 77069, on behalf of the Plaintiffs

1 Courthouse Way
Boston, Massachusetts

March 31, 2010

1 APPEARANCES (Cont'd)

2
3 BOIES, SCHILLER & FLEXNER LLP (By William
4 S. Ohlemeyer, Esq.), 333 Main Street, Armonk, New
York 10504
- and -
5 GOODELL, DeVRIES, LEECH & DANN, LLP (By
6 Bonnie J. Beavan, Esq.), One South Street, 20th
Floor, Baltimore, Maryland 21202
- and -
7 'SKADDEN, ARPS, SLATE, MEAGHER & FLOM, LLP
8 (By Catherine B. Stevens, Esq. and Mark S. Cheffo,
Esq.), Four Times Square, New York, New York
10036, on behalf of the Defendant

1 THE CLERK: All rise. Court is in session, please
2 be seated.

3 Calling Civil Action 07-11428, Shearer v. Pfizer.
4 Oh, sorry, Judge.

5 MR. ROSENKRANZ: Good morning, your Honor.

6 THE COURT: Good morning, counsel. Would you come
7 over here to the side bar, this doesn't have to be on the
8 record.

9 (Side bar conference off the record.)

10 THE COURT: We'll stand in recess until we have the
11 jurors. If they're back there we'll start right at nine
12 o'clock. We'll recess.

13 THE CLERK: 11 rise. Court is in recess.

14 (Recess.)

15 THE CLERK: 11 rise for the jury.

16 (Whereupon the jury entered the courtroom.)

17 THE CLERK: Court is in session, please be seated.

18 THE COURT: Good morning, folks.

19 THE CLERK: If you would move down one. Thank you.

20 In the second row. Right. Okay, great.

21 THE COURT: My name is Bill Young. I'm the judge
22 who is assigned to preside in this session of the Court.
23 You've already met my colleague, Magistrate Judge Bowler,
24 who was gracious enough to conduct the impanelment of the
25 jury, but you're stuck with me for the actual trial of the

1 INDEX

2 WITNESS: DIRECT CROSS REDIRECT RECROSS

3 DAVID FRANKLIN
4 By Mr. London 46 150
5 By Mr. Ohlemeyer 120

7 FOR IN

8 EXHIBITS: I.D. EVID.

9
10 2020 Neurontin Deciles 67
11 2020-1 Neurontin Indications 83
12 6000 Dr. McCormick Regarding Neurontin . 100
13 5655 Voice Mail Tape 107
14 4062 Memorandum 113
15 5150 Neurontin Marketing Assessment .. 117

1 case. That's my responsibility.

2 You were sworn as jurors. Mr. Newman, the Court
3 appoints you foreman of this jury.

4 Let me take a few minutes to explain in detail
5 exactly what's going to happen in this case and to tell you
6 a little bit about what your function is in this case
7 because you are the most important people in the courtroom.

8 At this time, in this courtroom, there are thirteen
9 judges. You twelve men and women are the judges of the
10 facts. You are the only judges of the facts. I'm the judge
11 of the law.

12 Now, let's consider a moment what that means to be
13 judges of the facts. This is informal, but I want to ask
14 you this: Do any of come from towns where they have direct
15 town meeting, everyone can get, go to town meeting and vote?
16 Does anyone? Thank you. Thank you.

17 When I'm picking a jury that's the first thing I
18 ask of the whole group. And you see you people who come
19 from towns where they have direct town meeting, you have the
20 experience of direct democracy, the people themselves ruling
21 directly. I don't come from such a town. But in those
22 towns everybody can go to town meeting. Everybody, if
23 you're 18 years of age or older, you can go to town meeting
24 and you 11 can vote. You vote whether to buy another fire
25 engine, raise the teachers' salaries, close the town dump.

1 didn't ask to be here, though you're charged with this
 2 important constitutional function. So get to know each
 3 other. Talk. Just not about what's going on in this room.
 4

Now, I don't mean to beat that to death. But it is
 5 very important. And every time we recess I will remind you
 6 of it by saying keep your minds suspended. Do not discuss
 7 the case either among yourselves nor with anyone else.

8 We'll recess for one-half hour until 20 minutes
 9 after 10:00. We'll stand in recess.

10 THE CLERK: 11 rise for the jury.

11 THE COURT: I'll remain on the bench.

12 (Whereupon the jury left the courtroom.)

13 THE COURT: Please be seated.

14 I want the recess -- please be seated.

15 I want the recess, too, so I'm only going to take a
 16 minute.

17 I've got this plaintiff's motion to preclude the
 18 utilization of the deposition of Charles Taylor. You're
 19 going to call Taylor or -- where's Taylor? Physically?

20 MR. OHLEMAYER: Physically, I think he's in
 21 Wisconsin, your Honor.

22 THE COURT: All right. Why can't he be here?

23 MR. OHLEMAYER: He's in between chemotherapy
 24 treatments, which is why we took the preservation deposition
 25 last summer that we took to use in cases like this.

1 don't insist upon it. The jury's 11 perfectly comfortable.
 2 So you people be comfortable. I just didn't want everybody
 3 else leaping up in case -- and honestly, I don't insist upon
 4 it. The bar enclosure is yours.

5 Now, I've done another one of these depositions.
 6 The way they've been submitted to me is fine. I understand
 7 you've got a problem with exhibits. So, recognizing that,
 8 I've said that the plea colloquy, if you've got that, and
 9 the judgment in the criminal case, those are admissible.
 10 Beyond that, now, when I did Mr. Glanceman, if a foundation
 11 appears in the deposition, I have underlined the exhibit and
 12 written admitted. So you don't need anymore. For example,
 13 he was shown an exhibit which from the transcript I am
 14 satisfied again is a Pfizer document, ergo an admission, and
 15 I'm satisfied that it's relevant. So if I can figure it out
 16 from the deposition, I'll do it because I want things to go
 17 smoothly. But if I can't, I'm not -- if there isn't an
 18 underlining and admitted, the exhibit is not in and you'll
 19 have to get it in some other way.

20 We'll recess until 20 after 10:00. We'll recess.

21 THE CLERK: 11 rise. Court is in recess.

22 (Recess.)

23 THE CLERK: 11 rise for the jury.

24 (Whereupon the jury entered the courtroom.)

25 THE CLERK: Court is in session, please be seated.

1 THE COURT: All right. You're going to have to
 2 supply medical evidence in view of their objection.

3 And with respect to Cynthia McCormick, she's not an
 4 expert?

5 MR. FROMSON: That's what the dispute is, your
 6 Honor.

7 MR. OHLEMAYER: Correct. Well, she's a witness who
 8 by reason of her position --

9 THE COURT: You're paying her.

10 MR. OHLEMAYER: No, no. She is a fact witness to
 11 events that occurred while she was at the FDA.

12 THE COURT: You're paying her?

13 MR. OHLEMAYER: She was paid for consulting after
 14 she left the FDA.

15 THE COURT: Right. That goes to the weight, not
 16 the admissibility. I won't treat her as an expert. But I
 17 can handle that on the deposition.

18 (Whereupon the Court and the Clerk conferred.)

19 THE COURT: Yes, two other just housekeeping things
 20 and let's take the -- Mr. London?

21 MR. LONDON: Yes, sir.

22 THE COURT: The practice in Massachusetts, but I
 23 didn't want to correct you, and I'm perfectly comfortable
 24 with your demeanor in court, but the practice is that
 25 lawyers stand when they inquire. You don't have to. I

1 THE COURT: Proceed, Mr. London.

2 DIRECT EXAMINATION (Cont'd)

3 BY MR. LONDON

4 Q Dr. Franklin, when we recessed you had just begun to
 5 tell the jury about one of your tools that you used out in
 6 the parking lot.

7 MR. LONDON: I would ask that Exhibit 2020,
 8 page 177, be called up on the screen, please.

9 THE CLERK: All right, let's see. You're with the
 10 plaintiffs, right?

11 MR. LONDON: Yes, I'm sorry.

12 THE CLERK: No, that's okay. I just have to get
 13 acclimated.

14 MR. LONDON: So do I.

15 Q All right, 2020 is just a cover page showing the date,
 16 and Parke-Davis provided that to you?

17 A Yes.

18 Q Now, let's turn to the next page which I believe is
 19 page 178 of the exhibit. Would you just show the jury in
 20 sort of a quick form how this document, you used it as a
 21 tool. Start at the territory and --

22 A Right. So, so in the far -- you guys can see it?

23 Q You have a highlighter that will work better. Maybe if
 24 you highlighted where you --

25 THE CLERK: You can --